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December 10, 2014

**Via Fax (212) 805-6326**

The Honorable Colleen McMahon  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

**MEMO ENDORSED****Re: Flo & Eddie, Inc. v. Sirius XM Radio Inc., Case No. 13-cv5784CM**

Dear Judge McMahon:

We represent plaintiff Flo &amp; Eddie, Inc. ("Flo &amp; Eddie").

As the Court is aware, on November 14, 2014, it issued its Memorandum Decision and Order Denying Defendant's Motion for Summary Judgment. Thereafter, on December 1, 2014, Defendant filed a Motion for Reconsideration. (Dkt. 99 and 100) On behalf of Flo & Eddie, we filed an Opposition to the Motion for Reconsideration today. (Dkt. 106)

As part of the Court's summary judgment order, it required Sirius XM to show cause why summary judgment should not be entered in favor of Flo & Eddie as to liability. On December 5, 2014, Defendant filed its Response to the Order to Show Cause. (Dkt. 104 and 105) Defendant's Response makes a number of statements regarding the facts and the law that are not correct and which can be shown not to create triable issues of material fact. Therefore, Flo & Eddie hereby requests permission to file an opposition to Defendant's Response to the Order to Show Cause. If the request is granted, because of the upcoming holidays, Flo & Eddie would request that it be given until December 30, 2014, within which to file its opposition.

Thank you for your consideration of this request.

Respectfully submitted,

  
Harvey W. Geller

cc: All counsel (via email)

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